

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO.1931 OF 2004

Dhangaauribai Gopalji Chauhan & Anr. .. Petitioners
V/s

The State of Maharashtra & Ors. .. Respondents

Mr.U.J.Makhija, Sr.Adv.with Ms.Preeti Shah for the
Petitioners.

Mr.R.M.Sawant, Govt.Pleader for Res.Nos.1 and 3.

Mrs.N.V.Sanglikar for Resp.No.2.

Mr.S.Rustomji i/by M/s.Little & Co. for Res.No.8.

**CORAM: F.I.REBELLO, &
S.P.KUKDAY, JJ.**

DATE : 06.04.2005.

P.C.:

1. Rule. Heard forthwith. The land belonging to the petitioners was reserved under the Development Plan for public purpose of Bus Depot for Respondent No.5. Thereafter, proceedings were initiated under the M.R.T.P.Act for acquisition of the land. Declaration was also issued under Section 6 of the Act. The matter is now pending before Respondent No.4 who has expressed inability to make an award in the absence of Respondent No.5 depositing the amount which is required to pay to the owners as a compensation for acquisition.

2. Respondent No.5 has now filed an affidavit dated 17th March, 2005. In para 3 it is set out that the matter has been re-examined in some detail and the Respondent No.5 has decided that it is not feasible to utilise the land for bus depot, bus station in view of difficulties with access to the site and space for

operations. In other words, the case of Respondent No.5 is that they are no longer interested in acquiring the said land for bus depot. In same paragraph of the affidavit, it is also set out that there is an urgent need in for a receiving sub-station in the area particularly in view of the projected development and growth of that area. The matter was adjourned to find out if the parties would workout the settlement. Counsel now informed the Court that there are practical difficulties and it is not possible.

3. Considering the above, and as the Respondent No.5 is no longer interested in the land, the question of granting relief in terms of prayer clause (a) would not arise. In so far as prayer clause (b) is concerned, it will not be possible for this Court to grant relief as prayed for. The matter would be governed by the provisions of Section 127 of the M.R.T.P.Act. However, considering that the Respondent No.5 is no longer interested, the Respondent No.4 is directed to proceed under Section 48 of the Land Acquisition Act according to law.

4. It is the case of the case of Respondent No.5 that they do not require the entire land and they require part of the land for public purpose. It is not for this Court to go into that issue. Suffice is to say that even if the reservation lapses under the M.R.T.P.Act, there is no bar in invoking the provisions of the Land

Acquisition Act for acquiring land for public purpose.

5. With the above observations, petition stands disposed of. However, there shall be no order as to costs.

(F.I.REBELLO, J.)

(S.P.KUKDAY, J.)